

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JACQUELYN KAY DANIELS,

Defendant-Appellant.

UNPUBLISHED

September 28, 2006

No. 262675

Emmet Circuit Court

LC No. 04-002352-FH

Before: Borrello, P.J., and Jansen and Cooper, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of resisting or obstructing an officer, MCL 750.81d(1). Defendant was sentenced to eighteen months' probation with eight months to be served in jail. She appeals as of right, claiming that there was insufficient evidence to support her conviction. We affirm. This appeal is being decided without oral argument. MCR 7.214(E).

On August 31, 2004, defendant's son was arrested for illegally driving a four-wheel all-terrain vehicle. Defendant was away from home at the time of the arrest. Police officers who assisted in the arrest waited at defendant's home for a tow truck to impound the four-wheeler. When defendant returned home, the officers were still on the scene. The officers advised defendant that the four-wheeler was being impounded and that they were waiting for the towing company to arrive. Defendant became angry and used profanity directed at the officers. When defendant tried to take some items from a storage compartment in the four-wheeler, the officers told her that she could not do that because the vehicle and the items included were being impounded. Defendant put the items down, but then took the key from the vehicle's ignition. The officers testified that they directed defendant to drop the key but that she refused and turned to walk away. The officers then restrained defendant and pried the key from her hand.

When determining whether sufficient evidence has been presented to sustain a conviction, this Court "must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). A reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict. *People v Bulls*, 262 Mich App 618, 623-624; 687 NW2d 159 (2004).

MCL 750.81d provides in relevant part:

(1) Except as provided in subsections (2), (3), and (4), an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

* * *

(7) As used in this section:

(a) “Obstruct” includes the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.

Defendant’s challenge to the sufficiency of the evidence rests on her assertion that she was not aware that she could not take the key from the four-wheeler. She testified that she had no intention to prevent the officers from impounding the vehicle and that when the officers told her to return the items taken from the vehicle’s compartment, they did not specifically tell her not to remove the key. Defendant maintains that once the officers told her not to take the key, she did not have enough time to respond before they restrained her. Thus, she claims there is insufficient evidence to support her conviction. We disagree.

The testimony of the officers provided sufficient support for the jury’s verdict. While defendant’s testimony contradicted that of the officers with respect to whether defendant was ordered not to take the key, this Court must resolve evidentiary conflicts in favor of the jury’s verdict. *Bulls, supra* at 623-624. The officers testified that defendant was aware that the vehicle was being impounded and that she was aware that she could not remove any items from it. They also testified that they specifically told her that she could not take the key, but that she did so anyway. According to the officers, defendant then physically resisted their attempts to regain the key, and they were required to pry the key out of her hand. We will not interfere with the jury’s determinations concerning the credibility of witnesses and the weight of the evidence. *Wolfe, supra* at 514-515. The officers’ testimony supported the finding that defendant knowingly disobeyed the officers’ lawful orders and physically interfered with their attempts to carry out their duties. MCL 750.81d(7)(a).

Viewing the evidence presented in a light most favorable to the prosecution, *Wolfe, supra* at 515, and resolving all evidentiary conflicts in favor of the jury’s verdict, *Bulls, supra*, we hold that there was sufficient evidence to support defendant’s conviction under MCL 750.81d.

Affirmed.

/s/ Stephen L. Borrello
/s/ Kathleen Jansen
/s/ Jessica R. Cooper